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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,211	11/04/2003	Andreas Derr	WEM-05002	5179
26339	7590	01/13/2006	EXAMINER	
MUIRHEAD AND SATURNELLI, LLC			CHANG, YEAN HSI	
200 FRIBERG PARKWAY, SUITE 1001			ART UNIT	
WESTBOROUGH, MA 01581			PAPER NUMBER	
			2835	

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/701,211

Applicant(s)

DERR ET AL.

Examiner

Yean-Hsi Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 65-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 65-77 is/are allowed.
- 6) ☒ Claim(s) 78-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 78-80, 83 and 86-88 are rejected under 35 U.S.C. 102(b) as being anticipated by Mehnert (US 5,018,049).

Mehnert teaches a portable electrical control and display device (fig. 1 or 2) comprising: an indicator element (6), a control element (4), a housing (1) that contains said indicator element and said control element, said housing including a transparent protective sight glass (8) and having an open end (shown in fig. 2), a sleeve (3) that accommodates said indicator element and said control element, and at least one sealing device (2) that closes said open end of said housing in a water-tight manner (see col. 3, lines 5-11 and col. 4, lines 21-24), said at least one sealing device including a peripheral groove (near end portion of 8, not labeled, shown in fig. 2) and a matching peripheral ridge (on the end portion of 8) arranged at opposite locations on the housing and the sleeve, wherein when the housing and sleeve are joined together, the ridge engages the groove (claims 78 and 79); wherein said indicator element is a visual indicator panel (shown in fig. 1) (claim 80); wherein the housing is at least partially

made of a colored material (see col. 3, lines 35-36) and wherein said transparent protective sight glass is connected to the housing in an area of the indicator element (at position of 7, fig. 1) (claim 83); wherein said housing is in two parts (8 and 9) that are attached together (fig. 1) (claim 86); wherein said two parts of the housing are attached together in a water-tight manner (see col. 3, lines 37-39) (claim 87); and wherein said sight glass is disposed in one of the parts (part of 8) (claim 88).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 78, 81-82 and 84-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehnert in view of White et al. (US 6,532,152 B1).

Mehnert teaches a portable electrical control and display device (fig. 1 or 2) comprising: an indicator element (6), a control element (4), a housing (3) that contains said indicator element and said control element, said housing including an opening (7), and at least one sealing device (2) that closes said housing in a water-tight manner (see col. 4, lines 21-24), said at least one sealing device including one of a plug and ring which can be pushed into the housing on at least one side, said one of the plug and the ring engaging in the housing when pushed in (see col. 4, lines 18-27), and a sleeve (1)

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that accommodates said indicator element and said control element (claims 65, 73 and 78), wherein said housing is made of temperature-resistance material that is resistant to a temperature of at least 70 degrees Celsius (see col. 3, lines 10-11; and metal is considered as temperature resistant to at least 70 degrees Celsius) (claims 71 and 84); and wherein the housing and the sleeve are similar in shape and the housing encloses the sleeve in an essentially form-fitting manner (fig. 1) (claims 74 and 85).

Mehnert fails to teach the housing including a transparent protective sight glass, the indicator element being an acoustic indicator, and the control element being a keyboard.

White teaches a portable electronic control and display device (200, fig. 2) comprising: a housing (202) including an aperture (210) with a transparent protective sight glass (212) (claims 65 and 78); an acoustic indicator (218) (claims 67 and 81); and a control element (220) being a keyboard with at least one keypad (claims 68 and 82).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Mehnert with the device taught by White such that the opening of the housing is covered with protective glass for being completely water-tight; and for indicating specifically the types of display element and control element.

5. Claims 89-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehnert.

Mehnert teaches a portable electrical control and display device (fig. 1) comprising: an indicator element (6), a control element (4), a housing (1) that contains said indicator element and said control element, said housing including an open end and (shown in fig. 2) a transparent protective sight glass (8), a control area portion (area portion at position of 4), wherein said control area portion of the housing is disposed in a corresponding position to said control element and includes at least one component (5) that contacts said control element when said control element is engaged (see col. 3, lines 12-15), and a sleeve (3) that accommodates said indicator element and said control element, said housing including a peripheral ridge (12), wherein, when the housing and sleeve are joined together, the peripheral ridge engages a peripheral groove (13) in the sleeve to close said open end in a water-tight manner (see col. 3, lines 5-11 and col. 4, lines 21-24) (claim 89); wherein said housing is made of a softer material than said sleeve (see col. 3, lines 1-11) (claim 90); wherein said ridge forms said groove in said sleeve when said housing and said sleeve are joined together (claim 91); wherein said housing is in two parts (8 and 9) that are attached together (claim 92); wherein said two parts of the housing are attached together in a water-tight manner (see col. 3, lines 37-39) (claim 93); and wherein said sight glass is disposed in one of the parts (on 8) (claim 94).

Mehnert fails to teach the ridge being on the sleeve and the groove being on the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the ridge and the groove rearranged on the sleeve and the housing, respectively, for easier manufacturing of the housing, since it has been

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held that rearranging parts of an invention involves only routine skill in the art. MPEP §2144.04 VI C.

***Allowable Subject Matter***

6. Claims 65-77 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter: The best prior art of record, Mehnert (US 5,018,049), and White et al. (US 6,532,152 B1), taken alone or in combination, fails to teach or fairly suggest a portable electrical control and display device comprising at least: a housing containing an indicator and a control element, including a transparent protective sight glass and having a soft jacket for receiving a support device of at least one sealing device to engage the housing as set forth in claim 65. Claims 66-77 are dependent claims from claim 65.

***Correspondence***

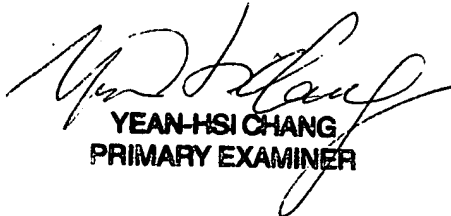
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yean-Hsi Chang whose telephone number is (571) 272-2038. The examiner can normally be reached on 07:30 - 16:00, Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the Art Unit phone number is (571) 272-2800, ext. 35. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8558.

Yean-Hsi Chang  
Primary Examiner  
Art Unit: 2835  
January 11, 2006

  
**YEAN-HSI CHANG**  
**PRIMARY EXAMINER**